U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

DATE: APR 0 2 2012 OFFICE: TEXAS SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions with post-baccalaureate experience equivalent to an advanced degree. The petitioner seeks employment as a graphic designer at the [redacted] doing business as the [redacted] The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding the defined equivalent of an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel, a new witness letter, and supporting evidence including documentation of the petitioner's past work.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions with post-baccalaureate experience equivalent to an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the

Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation (*NYSDOT*), 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, the petitioner must show that the alien seeks employment in an area of substantial intrinsic merit. Next, the petitioner must show that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available United States worker having the same minimum qualifications.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The intention behind the term "prospective" is to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The AAO also notes that the regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on July 6, 2010. On an accompanying Form ETA-750B, Statement of Qualifications of Alien, the petitioner described her job duties at [redacted]

> Prepares layouts, illustrations, graphic designs and logos for art museum brochures, pamphlets, fliers and related publicity materials, using traditional and computerized

design methods. Consults with management concerning employer's objectives for above materials. Creates original graphic designs and images in order to realize employer's goals and attract public interest and goodwill, applying knowledge of form, color, perspective and specialized graphic design techniques.

In an introductory letter, counsel stated:

> [The petitioner's] eligibility for national interest waiver classification is premised on her demonstrated talents as a graphic designer who has brought her substantial expertise to bear on the production of pub[l]ic art presentations that promote inter-cultural understanding by drawing attention to the primacy of shared symbolic imagery. . . .
>
> The totality of [the petitioner's] work is a compelling and original showcase of public art presentation and educational material that has a powerful impact on art and culture in the United States. As a leading innovator in this field, who is widely recognized for having been instrumental in drawing international and national attention to public art presentations, [the petitioner] is now uniquely poised to offer her tremendous talent and expertise to the benefit of US culture.

Three witness letters accompanied the petition. [redacted] vice director for Finance and Administration at the [redacted] stated:

> [F]rom November 4, 2004 until January 23, 2010, [the petitioner] was employed by the undersigned in H-1B status as a full time Graphic Designer, responsible for preparing graphic designs, brochures and related materials for museum exhibits, including ones that have been instrumental in promoting greater understanding among different cultures. During her employment with the [redacted] [the petitioner] played an increasingly important role in helping us prepare the graphics for the exhibits. It would not be an exaggeration at all to say that by the time she had completed five years of this employment, she had so much responsibility that it would have been very difficult, if not impossible, for the Museum to open its exhibits to the public without her assistance.

[redacted] stated that the Museum would rehire the petitioner "[u]pon her adjustment/admission to the status of US permanent resident."

[redacted] discussed an example of the petitioner's work:

> I am voicing my support of [the petitioner's] extraordinary contributions to the field of public art presentation. . . . In 2005 I curated a noteworthy exhibition, [redacted]" that included essential contributions by [the petitioner]. . . . [The petitioner] played an important role in the realization of this exciting exhibition by creating a superimposed rendering of the missing parts of the

> sanctuary floor based on sketches made . . . in 1883. This essential visual feature allowed viewers to contextualize the art, facilitating a fuller appreciation of its inter-cultural, historical and religious significance.
>
> [The petitioner's] remarkably fresh cultural sensitivity and aesthetic insights have helped revive the interest in and broaden the understanding of the common cultural elements and symbolic expressions connecting early Christianity and ancient Jewish civilizations, as well as the Roman Empire, ancient Egypt and Islam. Her involvement with unique and nationally significant presentations of historical artifacts . . . has allowed us to see these artifacts as shared educational tools for more fully understanding our multi-cultural community and the shared aesthetic and cultural legacies from which our modern society has emerged. . . . She has conceptualized and produced powerful educational resources for implementation by arts professionals and classroom teachers alike, providing our youth with activities to engage their curiosity and spark further interest in these important multi-cultural themes. In short, her mission has been to raise awareness of shared values through the lens of art and aesthetics.

[redacted] founding director of the [redacted] stated that the petitioner "has made a valuable contribution to promoting greater understanding of Muslim history and culture among the American public" and "has also played a major role . . . in promoting understanding of the common cultural background of the three great monotheistic religions through her work as a graphic designer for major exhibitions by the [redacted] that have been shown in many different parts of the United States." [redacted] discussed one of the petitioner's projects:

> [The petitioner] played an essential role in creating the graphic designs for a trail-blazing publication of New York's Metropolitan Museum of Art [redacted] This publication included a booklet containing background information on Islamic Art and a series of 11 pattern-making activities, included reproducible geometric grids that, in the words of the Metropolitan Museum itself "illuminates principles of geometric design that are the basis for the beautiful and intricate patterns in the art of the Islamic world." These pattern-making activities can be adapted, as the Metropolitan Museum also explains, to create exciting lessons in art, culture, math and geometry that teachers can use in the classroom.
>
> It would be hard to think of any activity better designed to promote understanding of a different culture than one that uses that culture's art in enabling students to create their own patterns and artistic creations. This booklet, I believe, is a unique landmark in the efforts to develop appreciation and respect for Islamic culture among young Americans.

The petitioner submitted excerpts from [redacted] The "Acknowledgments" section of the booklet identified 18 contributors, and concluded with this sentence: '[redacted] art directed and managed the various aspects of production, working

closely with [the petitioner], who created the effective illustrations and the handsome design." The booklet is not an entirely original work. Rather, information in the booklet itself makes it clear that the booklet is a revision of [redacted]

The petitioner also submitted information about two of the [redacted] touring exhibits – one involving Roman mosaics, the other focusing on ancient Egyptian beliefs and practices regarding the afterlife.

On November 15, 2010, the director issued a notice of intent to deny the petition. The director acknowledged the substantial intrinsic merit of the petitioner's occupation, but found that the petitioner "has not demonstrated how the graphic design work of the petitioner would be national in scope." The director also stated that the initial witness "letters fall short of describing original contributions that the alien's work has influenced the field of art as a whole."

In response, the petitioner submitted additional witness letters and arguments from counsel. Counsel stated:

> [T]he Notice of Intent to Deny (NID) . . . completely misunderstands why the work of the self-petitioner . . . is in the national interest of the US. It states that her work as a graphic designer for two of America's leading museums is significant only in the field of art, and completely overlooks or dismisses her work in promoting greater understanding between Muslims and non-Muslims through her work as a graphic designer who was instrumental in preparing a groundbreaking educational booklet dealing with Muslim art and culture.

The petitioner herself did not originally state that a primary purpose of her work was "promoting greater understanding between Muslims and non-Muslims," and no evidence in the initial submission conveys that impression either. No witness referred to a mutual "greater understanding between Muslims and non-Muslims." [redacted] stated that the [redacted] fosters "appreciation and respect for Islamic culture among young Americans," but did not claim any reciprocal effect on Islamic understanding of the United States. Even then, the initial submission gives the petitioner some credit for the layout of the booklet, but not its substantive content (which is adapted from an earlier publication that is older than the petitioner herself). Only in response to the notice of intent to deny did the petitioner, through counsel, shift the emphasis to understanding of the Islamic community.

Furthermore, the petitioner contributed to the [redacted], before she began working at the [redacted] late that same year. The record does not identify any projects by the petitioner during her five years at the [redacted] that addressed understanding of Islamic art.

Counsel cited the petitioner's "proven record of promoting greater religious understanding at home and greater friendship for America among our Muslim allies overseas." The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA

1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner submitted no evidence from "our Muslim allies overseas" to support counsel's assertion. The only new materials submitted in response to the director's notice were three letters, all from writers in the United States. The first letter is from the petitioner herself, who protested that the director referred to [redacted] as the petitioner's "colleague." The petitioner stated: "Far from his being a 'colleague' of mine, he is someone whom I do not know personally and have never met." The petitioner asserted that [redacted] is "one of America's leading experts in improving relations between Muslims and non-Muslims."

The director did not question [redacted] credentials. Rather, the director stated that [redacted] letter did not establish the impact of the petitioner's work or the significance of her role within her field. In terms of the petitioner's description above, it bears repeating that [redacted] in his letter, claimed expertise in "promoting greater understanding of Islam" but made no similar claim regarding improving the Islamic world's attitude toward the United States.

[redacted] an ordained rabbi and [redacted] does "not know [the petitioner] personally." [redacted] stated that the [redacted] "booklet will enable many Americans to replace negative stereotypes which they now hold about Islam with a more balanced and positive view, based on an accurate portrayal of this great world culture." [redacted] praised the booklet and stated that the petitioner's use of geometric design "has been instrumental in enabling Americans to understand and appreciate this important part of Muslim art and culture."

The record contains no circulation figures for the [redacted] booklet, and no demographic information to show the extent to which the petitioner's graphic design of the booklet (as opposed to elements of the booklet outside the petitioner's control) has improved Americans' understanding and appreciation of Islamic culture. Therefore, any assertion to the effect that the booklet – and specifically the petitioner's work on the booklet – has improved American understanding of Muslim culture appears to be unsubstantiated speculation. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

[redacted] stated:

> [N]ational security is a complex topic that requires expertise and experience, and my opinion is only as a specialist in the power of the arts for peace. . . . I believe that a perception by the allies of the United States that their culture and civilization is appreciated is of crucial importance.

> Allowing the US public to become more familiar with the beauty and elegance of Islamic art would surely improve the ties between the US and its allies, and this will have positive consequences for national security. This is an example of cultural diplomacy along the lines of [redacted] thanks to which the United States is not only feared for its tremendous military power, but also loved for its capacity to understand and embrace other cultures.

[redacted] praised the petitioner's "contribution to greater cultural understanding," specifically "her illustrations of the geometric patterns behind Islamic Art." The record does not indicate that the petitioner is largely responsible for public awareness that Islamic art relies on geometric patterns, or that this awareness has improved relations between the United States and its Islamic allies.

The director then received an electronic mail message from United States [redacted] quoted from witness letters and urged "full and fair review of [the petitioner's] National Interest Waiver application, consistent with applicable law, rules, and regulations." [redacted] claimed no personal knowledge of the facts of the petition, stating instead that she had gained an "understanding" of the matter through communication with the petitioner and counsel.

The director denied the petition on March 30, 2011. The director acknowledged the intrinsic merit and national scope of the petitioner's work, but found that the petitioner had not shown that she "plays a significant role in the furtherance of" improving relations between the people of the United States and those of the Islamic world. The director acknowledged the witness letters, but found that those letters lacked specific and verifiable details about the nature and extent of the petitioner's contributions.

In the initial statement on appeal, counsel states:

> [The director] erred in concluding that the petitioner had failed to show that her activities in promoting interfaith understanding as a graphic designer for two of America's leading museums had impacted the field of art or US-Muslim relations as a whole. In view of the widespread distribution of the above booklet . . . , together with the unquestioned nationwide importance of New York's Metropolitan Museum of Art and the Brooklyn Museum . . . , there is no justification for concluding that her work has failed to have a major impact on her field.
>
> This is especially true in view of the letters of two of America's leading experts on interfaith relations, especially between Muslims and non-Muslims, which were . . . all but dismissed out of hand, on the specious grounds that, although there were unquestionably from well-known independent authorities in the field, they were not "unsolicited."

Throughout this proceeding, counsel has treated the petitioner's impact and importance in her field as being somehow self-evident, and framed his assertions as though the director somehow has the burden

of refuting the proposition. There is, however, no presumption of eligibility. The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

Counsel mischaracterizes the director's findings about the witness letters. The director did not dispute the expertise of the witnesses. Furthermore, the director did not dismiss the letters "out of hand" because "they were not 'unsolicited.'" Rather, the director identified the witnesses, quoted from each of their letters, and concluded:

> [T]he letters . . . fail to establish that the alien has made contributions through her works to the fields of art or US-Muslim relations on a national scale. . . . The letters lack specific details or any corroborative evidence about how exactly the alien's work . . . has impacted or influenced the field of art or US-Muslim relations as a whole. General statements about improved/improving US-Muslim relations, National Security, etc., are not convincing evidence. . . .
>
> An alien that has had an impact on the field as a whole on a national scale should be able to produce independent, unsolicited evidence of such impact or influence, beyond the submission of letters of support written for the procurement of an immigration benefit.

To support the reference to "the widespread distribution of the [redacted] booklet," the petitioner submits a letter from [redacted] assistant counsel of the Metropolitan Museum of Art, who states "2,500 copies of this booklet were printed. Copies were distributed to 730 New York City public schools." Counsel fails to explain how these figures establish "widespread distribution." The petitioner submits nothing to show that 2,500 copies is a particularly large print run for a publication of its kind, or the extent (if any) of the booklet's distribution outside the New York City public school system.

In a subsequent letter dated May 28, 2011, counsel argues that the witnesses were quite clear in their description of the petitioner's contributions to her various projects. They offered no details, however, to support the broader and more relevant claim that the petitioner's work on the [redacted] booklet has improved relations with the Islamic world.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive

evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The letters considered above primarily contain bare assertions of the petitioner's influence on relations between the Muslim and non-Muslim communities, without providing specific information as to how that influence is evident. The petitioner also failed to submit independent documentary evidence to corroborate the witnesses' claims, which could have bolstered the weight of the reference letters.

On July 5, 2011, counsel requested additional time to obtain more witness letters "attesting to the impact of the I-140 petitioner's activities on behalf of promoting intercultural understanding through art and graphic design on the field as a whole." Although counsel did not indicate that the letter or letters existed yet, counsel claimed knowledge of the contents: "The letter will show that because of the Museum's national and international reputation . . . , the petitioner's activities as an exhibit graphic designer . . . are bound to have a major impact on the above field." It cannot suffice to claim that the petitioner's work is "bound to have a major impact," based on the employer's reputation. (No witness claims that the [redacted] owes its reputation to the petitioner's graphic design work.) This would be tantamount to a blanket waiver for employers at well-known institutions, and the statute did not establish any such blanket waiver. Rather, the petitioner must be eligible for the benefit sought at the time of filing the petition. *See* 8 C.F.R. § 103.2(b)(1). The petitioner must establish not only the potential for future influence, but also "a past history of demonstrable achievement with some degree of influence on the field as a whole." *NYSDOT*, 22 I&N Dec. at 219 n.6.

In a final submission dated July 14, 2011, counsel reiterates versions of previous arguments. Counsel again protests the director's use of the word "unsolicited" in the denial notice, claiming that the director had effectively required that the petitioner must be a "household name" in order to qualify for the waiver. The director imposed no such requirement. Nevertheless, if the petitioner's work has in fact had a demonstrable impact on relations with the Islamic community, there ought to be some sort of objective evidence of that impact. Counsel stresses that several witnesses are not personally acquainted with the petitioner. These witnesses must have, somehow, come by the knowledge that the petitioner's work has had the claimed influence. The witnesses, however, did not say how they knew the petitioner's work to be influential; they merely asserted that it was influential. In referring to "unsolicited" evidence, the director merely commented that there does not appear to be any evidence of the petitioner's claimed influence, apart from letters written for the specific purpose of supporting the petition.

The petitioner submits a letter from [redacted] deputy director for administration at the [redacted] who claims that the [redacted] holds a

> unique position in the field of producing exhibits covering the cultures of the ancient Middle East, West Asia and the Mediterranean. These exhibits, **by their very nature**, are bound to have a major cultural influence and impact, and to be of great significance in promoting greater tolerance and understanding among societies and religions that have often been at odds with one another.

[redacted] asserts [redacted] is not just another museum," then lists exhibits on which the petitioner "has played a crucial role through her graphic design work." These exhibits involved artifacts from the Roman Empire, pharaonic Egypt, and Assyria – all civilizations which collapsed hundreds of years before the emergence of Islam in the seventh century CE. It is not clear how often, if at all, future exhibitions will address the question of mutual understanding between the Muslim and non-Muslim communities. The record does not indicate that the petitioner has any authority over the selection of subjects for future exhibitions. The assertion that the petitioner's work fosters understanding of Islam, therefore, rests on a single project.

[redacted] discusses the looting of the National Museum in Iraq during the recent war, and states that the event "did not help the image of America in the Arab world." [redacted] then asserts: "The [redacted] is powerful evidence that America does indeed care about preserving the ancient cultural treasures of the Middle East." [redacted] cited no evidence to show that the exhibit had a significant effect in rehabilitating "the image of America in the Arab world," much less that the petitioner's work as a graphic designer influenced that effect.

The petitioner has relied very heavily on the [redacted] booklet. The record is devoid of verifiable evidence to show that this booklet has contributed significantly to improving relations with the Muslim community in the United States or abroad. Even if the booklet were known to be highly influential, however, it does not follow that everyone involved in its publication has therefore made – and will continue to make – significant strides in advancing those relations. The petitioner did not research, write or edit the text of the booklet, and was not its art director. Rather, her only credited contributions were "the effective illustrations and the handsome design." Even the witnesses who made unsupported claims about the overall effectiveness of the [redacted] booklet did not state that the booklet owed its positive influence to its illustrations and design. The record does not establish either the importance of the booklet or the significance of the petitioner's contribution to it.

After she left the [redacted], shortly after contributing to the [redacted] booklet, the petitioner worked for [redacted] for over five years. The record describes several exhibits and promotional materials using her work, but nothing that addresses relations with the Islamic community. The record indicates that the primary purpose of the petitioner's work is what she herself had originally described – the preparation of "publicity materials" and the creation of "original graphic designs and images in order to realize employer's goals and attract public interest and goodwill."

The petitioner and her witnesses have consistently claimed that the petitioner's work has contributed to improving the image of the United States in the eyes of Muslims in the Middle East, but the record contains no evidence from the Middle East to provide any first-hand support for that claim.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

As noted previously, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.